



September 22, 2010

Mrs. Natalie Andrews,

Thank you for this opportunity to provide comments on the proposed Renewable Portfolio Standard (RPS) Class I regulations. We eagerly anticipate the final RPS regulations that will provide the market with the long-term certainty that the industry has sought since August 2009, when the solar carve-out was first announced.

The following outlines Nexamp's recommendations with regard to changes to the (RPS) Class I revised regulation, 225 CMR 14.00, pertaining to the implementation of the Solar Carve-Out program. The implementation of these recommendations would further support the likelihood of success for our solar development clients, Nexamp's job growth potential (currently 70 plus full-time employees and over 50 subcontractors), and the sustainable growth of the solar industry in the Commonwealth.

1. **14.05(4)(a).** Nexamp believes that the intent of language in the solar carve-out regulations is to limit project size to 6 MW per contiguous site, especially given the relatively low program cap of 450 MW. However, the proposed regulations do not provide enough clarity to prevent gaming of the program. Under the proposed regulations, contiguous land that could host, for example, 15 MW of solar, could be sub-divided into three parcels of land, each owned by a separate LLC, and each eligible to produce and sell S-RECs. Nexamp believes that a project of this scope would fall outside the intent of the solar carve-out.

Recommendation: In order to prevent project development that runs contrary to the goals of the solar carve-out, we recommend that DOER more clearly define "parcel of land" in a way that prohibits the sub-division of land into solar sites which individually fall below the cap, but collectively exceed it.

2. **14.06(3)(a).** A related issue is the establishment of timing parameters for the review and issuance of a Statement of Qualification. The minting, vintage, sale, and Opt-In term of Solar Carve Out Attributes are contingent upon the date of the Statement of Qualification. The MA DOER reviews each application, but does not specify the length of time it will take to complete the review process. It is in the operator's best interest to align the timing of the RPS Effective Date and the Statement of Qualification, which is currently not possible given the uncertainty of the timing of the review process. For example, a project is put in a financially risky position by either not being able to sell valid SRECs because a Statement of Qualification was issued too late, or losing a quarter or more of Opt-In term due to a premature Statement of Qualification.

Recommendation: There are a number of ways to resolve this which we are open to accepting. We suggest establishing a set timeframe of 30 days that the Department is required to review a Statement of Qualification Application. If the Department is unable to meet this deadline, and the project is later found to qualify, then the project defaults to the RPS Effective date for purposes of the Opt-In term.

3. **14.05(4)(i).** The intent of the Solar Credit Clearinghouse is to ensure that the transactions clear the market, and in so doing, establish a floor value for Solar Carve Out Attributes. Based on discussions and feedback from our financing partners and other bankers, there is a strong perception from the financial community that a scenario can be envisioned in which the Opt-In Auction would not clear after three times, and thus the mechanism would not create a floor on S-REC value. This could occur when the market is long S-RECs and retail electricity suppliers are not motivated to buy Solar Carve Out Attributes at \$300/megawatt-hour (MWh) regardless of a three year shelf-life extension or related increase in future Solar Carve Out requirements. This limitation continues to undermine the ability of projects to finance around the Solar Credit Clearinghouse and to stimulate a robust market for Solar Carve Out Attributes.

Recommendation: In order to ensure that the Opt-In Auction will clear, to provide security for financing, and to incentivize a robust market for Solar Carve Out Attributes, we recommend that the Solar Credit Clearinghouse run the auctions indefinitely (or up to 10 times) with associated increase in subsequent Solar Carve-Out requirements until its clears and adjust related dates as necessary. There may be other mechanisms to increase the certainty of the Clearinghouse and Nexamp is more than glad to discuss these as well.

4. **14.08(3)(b)(3).** Nexamp appreciates the efforts needed to reach a compromise settlement with TransCanada. The result is much better than any continued uncertainty. However, there may be one inconsistency between the intent of the settlement and the Draft Revised Regulations. The settlement exempts load under contract prior to January 1, 2010 for “competitive retail electric suppliers” and the notice says, “eligible contracts do not include any contracts associated with Basic Service load sold by distribution companies to retail customers”. However, the Draft Revised Regulations do not explicitly exclude Basic Service and distribution companies from the definition of “contracts” and “retail electric suppliers”.

Recommendation: Nexamp recommends more specific language to clearly define that the new settlement language only applies to “competitive retail electric suppliers” and explicitly excludes Basic Service.

5. **14.06(3)(e).** Nexamp seeks a point of clarification around the annual announcement of the Opt-In Term. The most literal interpretation is that the project will know its Opt-In Term when it secures its SQA. However, this interpretation does not clearly define the projects to which a change in the Opt-In term applies, whether it be projects with an existing SQA, projects with an SQA under review, or projects that have yet to apply. For example, because there is no Clearinghouse in 2010, it seems that there will not be a change to the Opt-In Term until July 20, 2011 and that projects that receive a statement of qualification in 2011 prior to the announcement of the new Opt-In Term will qualify for the full 40 quarters and that any changes that occur on July 20, 2011 are not retroactive.



Recommendation: We look forward to your guidance and clarification around this issue and seek to avoid any uncertainty for projects seeking to secure a statement of qualification prior to the first Opt-In Term change date.

Nexamp is confident that your thoughtful consideration and incorporation of our recommendations will help to stimulate the cost-effective growth of the solar market in Massachusetts and continue to support job growth and long-term ratepayer savings. If you have additional questions, please contact Jon Abe, our Senior Vice President for Business Development at (978) 688-2700, ext. 707 or jabe@nexamp.com. Thank you for your continued leadership.

Best regards,

A handwritten signature in black ink, appearing to read "Dan Leary".

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